

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

Crl.MC.No. 3211 of 2007()

CRMP.3032/2007 of SESSIONS COURT, KOLLAM
[CRIME NO.451/2007 OF CHATHANNOOR POLICE STATION]
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PETITIONERS/ACCUSED:

1. ANZARI, S/O JALALUDHEEN,
EDAYILA VEEDU, NEDUMPANA CHERRY,
NEDUMPANA VILLAGE, KOLLAM.
2. SHYJAD, S/O SHAMSUDDEEN,
SHANAVAS MANZIL, KULAPPADAM,
NEDUMPANA VILLAGE, KOLLAM.
3. ILLIAS, S/O ABDUL MANAF,
CHARUVILA VEEDU, KULAPPADAM,
NEDUMPANA VILLAGE, KOLLAM.
4. SHANAS, S/O SHARAFFUDDEEN,
KOCHUKUNNATHU VEEDU, KULAPPADAM,
NEDUMPANA VILLAGE, KOLLAM.
5. RASEEM, S/O NABEESA BEEVI,
MELOOTTU VEEDU, KULAPPADAM,
NEDUMPANA VILLAGE, KOLLAM.

BY ADV. SRI.C.RAJENDRAN

RESPONDENTS: STATE AND DE-FACTO COMPLAINANT

1. STATE OF KERALA, REPRESENTED BY
SUB INSPECTOR OF POLICE, KUNDARA POLICE STATION,
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.
2. ASHISH, S/O RAJU,
ASHISH BHAVAN,
CHALAKKARA SETTLEMENT COLONY,
PALLIMON VILLAGE, KOLLAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 18/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3211 of 2007

Dated this the 18th day of October 2007

O R D E R

The petitioners face allegations in a crime registered for offences punishable inter alia under Section 3(i)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The crux of the allegations against the petitioners is that they intentionally insulted and intimidated the de facto complainant, a person who allegedly belongs to Scheduled Caste. One of the co-accused has already been granted regular bail as per Annexure A3 order passed by the learned Sessions Judge.

2. The petitioners have come to this court with the prayer that powers under Section 482 Cr.P.C may be invoked to quash the F.I.R registered against the petitioners. In the course of arguments after discussions at the bar, the learned counsel for the petitioners finally makes only one prayer. He prays that there may be a direction to the learned Magistrate to consider the petitioners' application for regular bail on merits, in accordance with law and on the date of surrender itself.

3. The petitioners face allegations under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. under Section 14 of the said Act, trial is to be conducted before a Special (Sessions) Court. But the mere fact that the trial is to be held before a Sessions Court, will not in any way absolve the learned Magistrate of his duty and responsibility to consider the bail application on merits. Under Section 437 Cr.P.C, the learned Magistrate does have competence to consider the bail application on merits. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on their surrender on merits, in accordance with law and expeditiously. Sufficient general directions have already been issued on this aspect by this court in various decisions. [See Ali v. State of Kerala [2000(2) KLT 280, Shanu v. State of Kerala [2000(3) KLT 452, Krishnakumar v. State of Kerala [20005(1) KLD(Cri.)42] and P.P.Kader v. State of Kerala [2005(1) KLD(Cri.)250]].

4. It has also been directed that applications for bail must also be considered by the learned Magistrate in accordance with law and expeditiously. No special or specific directions

appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003 (1)KLT 339].

5. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself in accordance with the dictum in the decisions referred above.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007